
Appeal Decisions

Site Visit made on 20 September 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2021

Appeal Ref: APP/W0530/W/21/3271437

The Retreat, Fews Lane, Longstanton, CB24 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Landbrook Homes Ltd against South Cambridgeshire District Council.
 - The application Ref 20/05101/FUL, is dated 11 December 2020.
 - The development proposed is Erection of a chalet bungalow with garage and associated infrastructure.
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Decision

1. The appeal is allowed, and planning permission is granted, for the erection of a chalet bungalow with garage and associated infrastructure at The Retreat, Fews Lane, Longstanton CB24 3DP, in accordance with the terms of application Ref: 20/05101/FUL, dated 11 December 2020, and subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Daniel Fulton, on behalf of Fews Lane Consortium Ltd, against the County Council in their capacity as Highway Authority. This is the subject of a separate decision.

Procedural Matters

3. In response to the publicity for the appeal, both Fews Lane Consortium Ltd (the Consortium) and Longstanton Parish Council requested that the appeal procedure take the form of a hearing, rather than through Written Representations. The basis of this request related to the considerable public interest in the appeal, as well as to enable the highway safety evidence submitted by the County Council to be tested by questions at a public event. In addition, reference is made to two judicial reviews that are pending which relate to previous decisions on the site.
4. The appeal is a result of the Council failing to make a decision on the original application within the prescribed period of time, and on the basis of the evidence before me, there is a detailed history on the site. I have had full regard to the representations made by the Consortium and the Parish Council, and will address these within this decision. However, on the basis of the evidence before me, I am quite satisfied that the case can be suitably determined using the Written Representations procedure. Accordingly, I have proceeded to assess the appeal on this basis.

5. The Consortium have also questioned the validity of the original application and subsequent appeal. Specifically, concern has been raised regarding the ownership of the site and whether appropriate notice has been served, having regard to the requirements of the Town and Country Planning (Development Management Procedure) Order 2015.
6. Through the application, the applicant stated that they had been unable to find all relevant landowners despite land registry searches. Accordingly, the application was accompanied by Certificate D with the application being advertised within the Cambridge Independent on 16 December 2020. Despite this, the Consortium refer to their own land registry searches and make reference to possible other land owners. However, there is nothing compelling in the evidence before me that the details provided are specifically relevant to the land within the red line of the appeal site.
7. Given the recent history of the broader parcel of land with which the appeal site is associated, the ongoing development would have been heavily publicised. Accordingly, in my view, if land ownership concerns were to arise, this would likely have already been flushed out. In addition, I have no reason to believe that if any disputes were to arise, that these could not be adequately resolved through private means. Regardless of the site history however, on the basis of the evidence before me, I am satisfied that the appellant has suitably discharged the requirements of the DMPO in relation to land ownership and publicity. In addition, although the site hosts a public right of way (PROW), the evidence before me does not imply that this route would be affected. The proposal would increase vehicular movements, however, this would not affect the status of the PROW, or alter its route. As a consequence, I am satisfied that the proposal did not need to be published as a development that would affect a PROW.
8. I agree with the Consortium that the Planning Inspectorate has an obligation to uphold the planning system. However, in my judgement, the appellant has not been picking or choosing the necessary requirements regarding what constitutes a valid application and appeal. I am satisfied that the requirements of the DMPO have been suitably discharged and that the original application was appropriately publicised. Accordingly, this matter has no bearing on my assessment of the appeal.

Main Issue

9. Despite the detailed evidence that is before me, due to the site history, in my judgement, the main issue is the effect of the proposal on highway safety.

Reasons

10. The appeal site has a complex planning history. However, planning permission was granted at appeal in 2018 for the erection of a 3-bedroomed bungalow with parking¹. In addition, a further planning permission was granted by the Council for what is described as an identical proposal which included an amended red line site plan connecting the public adopted highway². Due to these decisions, in my judgement, the principle of development at the appeal site has been firmly established.

¹ APP/W0530/W/18/3197008

² S/2439/18/FL

11. However, within the evidence before me, there is much discussion regarding the highway safety implications of the proposal. Indeed, the Consortium have submitted a Technical Note provided by Create Consulting Engineers Ltd, dated 2 September 2021, which considers matters relating to highways and access. This note identifies concerns regarding visibility for vehicles and pedestrians, as well as relating to increased traffic movements on a narrow access road. Essentially, the overriding conclusion of the technical note is that due to existing visibility and the width of the access road, an additional dwelling could give rise to highway safety concerns.
12. These concerns are amplified by substantial representations provided by the Consortium which provide detailed comments on the matters above. This includes a summary of the planning history of the site as well as detailed correspondence with the Highway Authority regarding the site. Accordingly, it is apparent that the strength of feeling regarding the proposal is substantial.
13. The proposal would result in a modest increase in the size of the dwelling proposed, beyond that which already benefits from planning permission. However, when compared with the approved scheme, such a small increase would not materially alter the vehicular movements along Few's Lane. It would also not alter any perceived shortcomings with the vehicular access that has already been granted permission.
14. I do not dispute that Few's Lane is narrow and that there are no formal passing areas for vehicles. In addition, I note the reservations from the Consortium regarding visibility. However, in this regard, the approved development cannot be ignored. I note the comments from the Consortium in relation to the consideration of fallback positions, but based on the evidence before me, I am satisfied that there would be significantly more than a theoretical possibility that the approved development would be implemented. Although it would be for a smaller dwelling, in the absence of an alternative scheme, in my judgement there would be substantially more than just a real prospect that the permission would be implemented. Accordingly, having regard to the main issue, I give significant weight to the presence of the approved scheme given its identical implications for highway safety.
15. In addition, within the evidence, it is abundantly clear that the proposed access arrangements have been thoroughly scrutinised by the Highway Authority. The evidence demonstrates that suitable visibility can be provided, and although this would rely on land outside of the appellant's control, it would be within the adopted highway and would not rely on land in third party ownership. Moreover, splay can be provided to enable pedestrian visibility. I accept that these scenarios would not necessarily entirely accord with best practice. However, the proposal would utilise an established access which already serves five properties, and I have not been presented with any evidence regarding any history of accidents associated with the access or junction. In addition, as identified above, the presence of a planning permission for an almost identical proposal weighs very heavily in favour of the development.
16. The key consideration with the proposal is the effect on highway safety and in this regard, the Framework requires that safe and suitable access to the site can be achieved for all users. Having regard to all of the evidence before me, including the history of the site, I am entirely satisfied that safe and suitable access would be provided. Consequently, I conclude that the proposal would

not have a harmful effect on highway safety. On this basis, it would comply with Policy HQ1 of the South Cambridgeshire Local Plan (2018) which requires, amongst other things, the provision of safe and convenient access for all users and abilities.

Other Matters

17. Within the evidence, concerns are raised regarding the effect of the proposal on the character and appearance of the area. However, as identified above, the proposal would result in a small enlargement to a previously approved dwelling and would form part of the ongoing redevelopment of the broader site. In this context, I am satisfied that the proposal would complement the existing and proposed dwellings, and that it would not harm character and appearance.

Conditions

18. In light of my findings set out above, conditions are necessary in the interests of precision and clarity to establish the time limit for commencing development as well as to list the approved drawing numbers. Condition 3 relates to operations on, and deliveries to, the site, and it is necessary to minimise noise and disturbance, as well as in the interests of highway safety. The Council have suggested more detailed conditions regarding construction management, however, the appellant has highlighted the fact that permissions on the site exist without the requirements of such conditions. Accordingly, in their view, such conditions would fail to comply with the tests of necessity and reasonableness. As identified above, I am satisfied that the presence of a demonstrable and meaningful fallback position is a strong material consideration that weighs in favour of the development. For the same reasons, I am satisfied that the approach to deliveries and site management should follow on from previous approvals.
19. Conditions 4 and 5 are necessary to promote more sustainable methods of construction and Condition 6 is necessary to ensure an adequate drainage scheme. Condition 7 is necessary to ensure appropriate provision of broadband infrastructure, and condition 8 is necessary to ensure that should contaminated land be found, it can be appropriately dealt with. Condition 9 is necessary to minimise noise and disturbance, and condition 10 is necessary in the interests of biodiversity enhancement. In addition to the conditions suggested by the Council, I have added a condition regarding the submission of a landscaping scheme to ensure that the development is provided with a suitable setting.
20. Conditions removing national permitted development rights require clear justification. Although previous approvals on the broader site may have such restrictions imposed, I have no substantive evidence before me to demonstrate why this would be necessary on this development. Accordingly, I find that the clear justification required by the Framework does not exist.

Conclusion

21. For the reasons identified above, the appeal should be allowed, and planning permission should be granted.

Martin Chandler

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: FLL-NB3-01; FLL-NB3-02; FLL-NB3-03.
- 3) During the period of the construction of the development, no power-operated machinery shall be operated in connection with the development, and no deliveries of materials or equipment shall be either received or despatched from the site, outside of the following hours:
 - a. Weekdays: 0800 – 1800 hours
 - b. Saturdays: 0800 – 1300 hours
 - c. Sundays and Bank Holidays: None
- 4) No development above slab level shall take place until a scheme has been submitted that demonstrates a minimum of 10% of carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The scheme shall be implemented and maintained in accordance with the approved details prior to the occupation of the dwelling.
- 5) The dwelling hereby approved shall not be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with.
- 6) No development above slab level shall occur until a scheme for the provision and implementation of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans prior to the occupation of any part of the development.
- 7) The dwelling hereby approved shall not be occupied until the dwelling has been provided with sufficient infrastructure, including sockets, cabling and connection points, sufficient to enable Wi-Fi, and suitable ducting (in accordance with the Data Ducting Infrastructure for New Homes Guidance Note) has been provided to the public highway that can accommodate fibre optic cabling, unless otherwise agreed in writing with the Local Planning Authority.
- 8) If during the development contamination not previously identified is found to be present at the site, such as putrescible waste, visual or physical evidence of contamination of fuels/oils, backfill or asbestos containing materials, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved to the satisfaction of the Local Planning Authority.

- 9) In the event of the foundations for the proposed development requiring piling, prior to any piling taking place, the applicant shall provide the local authority with a report / method statement for approval detailing the type of piling and mitigation measures to be taken to protect local residents noise and or vibration. Potential noise and vibration levels at the nearest noise sensitive locations shall be predicted in accordance with the provisions of BS 5528, 2009 - Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 - Noise and 2 -Vibration (or as superseded). Development shall be carried out in accordance with the approved details.
- 10) No development above slab level shall commence until a biodiversity enhancement scheme has been submitted to and approved in writing by the Local Authority. It shall include the consideration of native planting, hedgehog habitat and connectivity and the proposed specification, number and locations of internal and / or external bird and / or bat boxes on the new buildings and any other measures to demonstrate that there will be a net biodiversity gain on the site of at least 10% (unless an alternative target is otherwise agreed by reason of viability). The biodiversity enhancement scheme as agreed shall be carried out prior to the occupation of the development and subsequently maintained in accordance with the approved scheme for the lifetime of the development.
- 11) Prior to its installation, a scheme for both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved details and in accordance with a programme of implementation, agreed in writing by the Local Planning Authority.